

**St. Croix Labor Union Mutual Homes, Inc. and
Virgin Islands Workers' Union, Local 611 of
H.E.R.E., AFL-CIO. Case AO-292**

May 8, 1992

ADVISORY OPINION

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

On March 27, 1992, the Board received a petition for an advisory opinion pursuant to Sections 102.98 and 102.99 of the Board's Rules and Regulations from the Petitioner, St. Croix Labor Union Mutual Homes, Inc., seeking to determine whether the Board would assert jurisdiction over its operations.

In pertinent part, the petition alleges as follows:

1. There is currently pending before the U.S. Virgin Islands Department of Labor a charge (ULP-01-92 STX) filed by the Union, Virgin Islands Workers' Union, Local 611 of H.E.R.E., AFL-CIO, alleging that the Petitioner has engaged in certain unfair labor practices within the meaning of Title 24, Chapter 65, Subsection 3 and 5, of the Virgin Islands Code.¹

2. The Petitioner is the owner of two apartment complexes located in St. Croix, U.S. Virgin Islands, which are managed by Community Realty Management Co.

3. During the past 12 months, the Petitioner derived over \$50,000 in gross revenues from the United States Housing and Urban Development Authority (HUD) in the form of rent subsidies. The total gross revenues derived from all sources from the operation of the Petitioner's apartment complexes during the past 12 months exceeded \$1 million, based on rent receipts and HUD subsidies. The gross amounts from the pur-

chase of services from outside the U.S. Virgin Islands exceeded \$50,000 as a result of payments made by the Petitioner to its managing company located in the State of New Jersey.

4. The Petitioner is unaware whether the Union admits or denies the commerce data, or whether the U.S. Virgin Islands Department of Labor has made any findings with respect thereto.

5. There is no representation or unfair labor practice proceeding involving the same labor dispute currently pending before the National Labor Relations Board.

Although all parties were served with a copy of the petition for an advisory opinion, none has filed a response thereto as permitted by Section 102.101 of the Board's Rules and Regulations.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Having duly considered the matter, the Board is of the opinion that it would assert jurisdiction over the Petitioner. The Board has established a \$500,000 discretionary standard for asserting jurisdiction over residential apartment buildings. See *Parkview Gardens*, 166 NLRB 697 (1967). As the petition alleges that the total gross revenues received from the operation of the apartment buildings exceed \$1 million, the Petitioner clearly satisfies the Board's discretionary jurisdictional standard. As the petition further alleges that the purchase of services from outside the U.S. Virgin Islands exceeds \$50,000, the Petitioner also satisfies the Board's statutory standard for asserting jurisdiction.

Accordingly, the parties are advised that, based on the foregoing allegations and assumptions, the Board would assert jurisdiction over the Petitioner.²

¹ The petition also alleges that the U.S. Virgin Islands Commissioner of Labor certified the Union on August 2, 1992, as the bargaining representative of the maintenance employees employed at "St Croix Mutual Homes, Inc.," that the Virgin Islands Department of Labor "intended to assert jurisdiction over the Petitioner but had the wrong name," and that "there is not a Collective Bargaining Agreement pursuant to the attempted certification."

² The Board's advisory opinion proceedings under Sec. 102.98(a) of the Board's Rules are designed primarily to determine if an employer's operations meet the Board's "commerce" standards for asserting jurisdiction. Accordingly, the instant Advisory Opinion is not intended to express any view regarding the merits of the unfair labor practice allegations pending before the U.S. Virgin Islands Department of Labor or as to whether the subject matter of the dispute is governed by the National Labor Relations Act. See generally Sec. 101.40 (e) of the Board's Rules.